

PATRICK J. CAFFERTY, JR. (State Bar No. 103417)
HOJOON HWANG (State Bar No. 184950)
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105
Telephone: (415) 512-4000
Facsimile: (415) 512-4077
Attorneys for Defendant
Shell Oil Company

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MATTHEW LORNE and JENNIFER
LORNE, as Trustees of the JOSEPHINE
WILSON TRUST,

Plaintiffs,

vs.

WELLS FARGO BANK, N.A., both in its
own corporate capacity generally and as
Trustee of the Walter Hansen Trust;
SHELL OIL COMPANY; and DOES 1-
100 inclusive,

Defendants.

CASE NO. C. 03-0243 MJJ

**STIPULATION AND ~~PROPOSED~~
ORDER RE DISMISSAL WITHOUT
PREJUDICE**

Defendant Shell Oil Company ("Shell") and Plaintiffs Matthew Lorne and Jennifer Lorne as Trustees of the Josephine Wilson Trust ("Plaintiffs") (collectively, the "Parties"), through their respective counsel, hereby enter into the following stipulation:

WHEREAS, Plaintiffs are former owners of certain property located at 1809 A Street, Antioch, California (the "Property").

WHEREAS, there is a Shell-branded retail gasoline service station located at 1800 A Street, Antioch, California (the "Station").

1 WHEREAS Plaintiffs allege in this lawsuit, among other things, that certain hazardous
2 materials originating from the Station have contaminated the soil and groundwater beneath the
3 Property, and sought damages and injunctive relief pursuant to various common law and statutory
4 claims Plaintiffs assert against Shell based on such allegations.

5 WHEREAS Shell filed answers denying the material allegations of the complaint and
6 asserting certain affirmative defenses. Shell contends that it has no liability to Plaintiffs, denies
7 all of the material allegations made against it in the lawsuit, and denies any wrongdoing,
8 misconduct, or liability. Shell further contends that it has been taking and will continue to take
9 appropriate remedial action with respect to any contamination originating from the Station as
10 required or may be required in the future by the regulatory agency with oversight of the Station.

11 WHEREAS the Parties believe that the California Underground Storage Tank Clean Up
12 Fund (the "UST Fund") will provide, subject to certain terms and limitations, reimbursement for
13 costs incurred by Plaintiffs and/or their successors for remediation of petroleum hydrocarbon
14 contamination at the Property, which reimbursement may prove sufficient to fully cover the
15 expenses incurred by Plaintiffs and/or their successors in connection with the remediation of such
16 contamination.

17 WHEREAS the Parties wish to avoid the expenses and burdens of litigation at this time, in
18 light of the possibility that funds available from the UST Fund and Shell's continuing remediation
19 of the contamination originating from the Station pursuant to regulatory orders may fully resolve
20 the disputes among the Parties.

21 WHEREAS the Parties have entered into an Agreement for Dismissal and Tolling, by
22 which Shell has agreed to toll certain claims under the terms and conditions specified in the
23 agreement and by which Plaintiffs have agreed to dismiss this case without prejudice.

24 NOW THEREFORE the Parties agree and stipulate that:
25
26
27
28

1 1. Plaintiffs' complaint is dismissed without prejudice as to Defendant Shell Oil
2 Company; and

3 2. Shell and Plaintiffs shall bear their own costs of suit.
4

5 DATED: June 8, 2005

MUNGER, TOLLES & OLSON LLP

8 By 
HOJOON HWANG

9 Attorneys for Defendant
10 SHELL OIL COMPANY

11 DATED: June __, 2005

MAYO & ROGERS

13 By _____
14 TERENCE O. MAYO

15 **~~PROPOSED~~ ORDER**

16 Based upon the parties' stipulation and for good cause appearing, IT IS HEREBY
17 ORDERED THAT:

- 18 1. Plaintiffs' Complaint, as against Defendant Shell Oil Company, is hereby
19 DISMISSED without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2);
20 2. The parties shall bear their own costs.
21

22 Dated: 6/13, 2005

23 By: /s/

24 United States District Judge



1. Plaintiffs' complaint is dismissed without prejudice as to Defendant Shell Oil Company; and
2. Shell and Plaintiffs shall bear their own costs of suit.

DATED: June 8, 2005

MUNGER, TOLLES & OLSON LLP

By HOJOON HWANG

Attorneys for Defendant
SHELL OIL COMPANY

DATED: June 8, 2005

MAYO & ROGERS

By TERENCE O. MAYO

[PROPOSED] ORDER

Based upon the parties' stipulation and for good cause appearing, IT IS HEREBY ORDERED THAT:

1. Plaintiffs' Complaint, as against Defendant Shell Oil Company, is hereby DISMISSED without prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2);
2. The parties shall bear their own costs.

Dated: _____, 2005

By: _____
United States District Judge